



## Ohio Revised Code

### Section 3734.041 Explosive gas monitoring plan for landfill.

Effective: September 29, 2017

Legislation: House Bill 49 - 132nd General Assembly

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(A) The owner or operator holding a license issued under division (A) of section 3734.05 of the Revised Code for a sanitary landfill that is so situated that a residence or other occupied structure off the premises of the landfill is located within one thousand feet horizontal distance from the exterior boundary of the landfill, and the owner or operator of any closed landfill that is so situated and for which a license was issued under division (A) of section 3734.05 of the Revised Code, or the subsequent owner, lessee, or other person who has control of the land on which the closed landfill is located, shall, within sixty days after the effective date of the rules adopted under division (F) of this section, submit an explosive gas monitoring plan for the landfill or closed landfill to the director of environmental protection for approval for compliance with those rules. After approval of the plan, the owner, operator, subsequent owner, lessee, or other person shall conduct monitoring of explosive gas levels at the landfill or closed landfill, and submit written reports of the results of the monitoring to the director and the board of health of the health district in which the landfill is located in accordance with the approved plan and the schedule for implementation contained in the approved plan.

No person shall violate or fail to perform a duty imposed by a plan approved under this section.

(B) Division (A) of this section does not apply to a sanitary landfill or closed sanitary landfill that exclusively disposes, or disposed, of solid wastes generated on the premises where the landfill or closed landfill is located; to a sanitary landfill or closed sanitary landfill that exclusively disposes, or disposed, of solid wastes generated on one or more premises owned by the person who owns the landfill or closed landfill; or to a sanitary landfill or closed sanitary landfill owned or operated by a person other than the generator of the wastes that exclusively disposes, or disposed, of nonputrescible solid wastes or nonputrescible wastes generated by a single generator at one or more premises owned by the generator.

(C) As used in this division and division (D) of this section, "responsible party" includes the owner or operator of a solid waste disposal facility; any current or former owner of a closed solid waste



disposal facility; any person who was responsible for the operations of a closed solid waste disposal facility; any lessee or other person who has control of the property on which a closed solid waste disposal facility is located; a receiver appointed pursuant to Chapter 2735. of the Revised Code with respect to a solid waste disposal facility or closed solid waste disposal facility; and a trustee in bankruptcy.

Notwithstanding division (B) of this section, if the director determines that, due to the types of wastes disposed of, the engineering design, the hydrogeological setting, the period of time since the commencement of operation, the proximity of residential or other occupied structures located off the premises of a solid waste disposal facility to the exterior boundaries, or information related to concentrations of explosive gas at or surrounding a facility or closed facility, the potential exists for the formation and subsurface migration of explosive gases in such quantities and under such conditions as to threaten human health or safety or the environment, the director may issue to any responsible party an order directing the responsible party to prepare and submit a new or revised explosive gas monitoring and reporting plan that complies with division (A) of this section and provides for the adequate evaluation of explosive gas generation at and migration from the solid waste disposal facility or closed solid waste disposal facility. A plan so submitted shall be approved in accordance with division (A) of this section. After approval of the plan, the responsible party shall conduct monitoring of explosive gas levels at the facility or closed facility and submit written reports of the results of the monitoring in accordance with the plan approved under this section. For the purposes of this division and division (D) of this section, explosive gases shall be considered to threaten human health or safety or the environment if concentrations of methane generated by a facility in occupied structures exceed twenty-five per cent of the lower explosive limit or if concentrations of methane generated by the facility at the facility boundary exceed the lower explosive limit. As used in this division, "lower explosive limit" means the lowest per cent by volume of methane that will produce a flame in air at twenty-five degrees centigrade and atmospheric pressure.

(D) If a report submitted pursuant to a plan approved under division (A) of this section indicates that the formation of explosive gases at, and migration of explosive gases from, a solid waste disposal facility or closed solid waste disposal facility threatens human health or safety or the environment, the director or his authorized representative may conduct an evaluation of the levels of explosive gases on the premises of the facility and in occupied structures located in proximity to the boundaries



of the facility to determine whether the formation of explosive gases at, and migration of those gases from, the facility or closed facility constitutes such a threat. In addition, the director or the director's authorized representative, on their own initiative, may conduct an evaluation in accordance with division (G) of this section. Based upon the findings of an evaluation, the director may issue an order under division (A) or (B) of section 3734.13 of the Revised Code, as the director considers necessary or appropriate, directing any responsible party to perform such measures as the director considers necessary or appropriate, to abate or minimize the formation of explosive gases or their migration off the premises of the facility, to abate or remedy any conditions caused by the formation and migration of such gases that threaten human health or safety or the environment and to take such actions as the director finds necessary or appropriate to prevent recurrence of the migration of explosive gases or decrease their concentration to levels set forth in division (C) of this section.

After the issuance of an order under this division, the director shall inspect the facility at such intervals as the director or an authorized representative of the director considers necessary or appropriate to ascertain compliance with the order until such time as the director determines that full compliance with those terms and conditions has been achieved.

If a report submitted pursuant to a plan approved under division (A) of this section indicates that the formation of explosive gases at, and migration of explosive gases from, a solid waste disposal facility that is subject to an order issued under division (D) of this section has recurred in such quantities or under such conditions as to threaten human health or safety or the environment, or if the director determines from an inspection of any such facility that the responsible party has violated or is violating a term or condition of the order or that measures in addition to those prescribed by the order are necessary or appropriate under the circumstances, the director shall take such actions under division (A), (B), or (C) of section 3734.13 of the Revised Code as the director considers necessary or appropriate to protect human health or safety or the environment.

(E) The director shall conduct random inspections of licensed and closed sanitary landfills for explosive gas levels and to monitor the accuracy of the reports submitted pursuant to plans approved under division (A) of this section.

(F) The director shall adopt rules under Chapter 119. of the Revised Code prescribing standards for conducting the explosive gas monitoring required by division (A) of this section including, without



limitation, standards governing the numbers, locations, and design and construction of monitoring wells; quality control procedures to be followed by persons conducting those evaluations to ensure the accuracy of the monitoring; the frequency for sampling the monitoring wells, which shall be at least quarterly, except as otherwise provided in this division; and the frequency of reporting monitoring results to the director and board of health. The rules shall require that, in the instance of closed sanitary landfills, explosive gas monitoring be conducted for the period of twenty years after closure or for such other period as the director considers necessary or appropriate. Such explosive gas monitoring shall be conducted quarterly during each of the five years immediately following closure of the landfills and semiannually thereafter. If such semiannual sampling shows that the methane limits set in division (C) of this section are exceeded, sampling may be resumed at a frequency determined by the director.

(G) The director or the director's authorized representative may enter upon a solid waste disposal facility or a closed solid waste disposal facility to conduct an evaluation of the concentration of explosive gas generated at or migrating from the facility. The owner or operator of a solid waste disposal facility or closed solid waste disposal facility shall allow the director or representative to conduct such an evaluation of the facility, any structures within the boundary of the facility, and any occupied structures in close proximity to the boundary of the facility that are owned or controlled by the owner or operator.

(H) The remedy provided by division (D) of this section is cumulative and concurrent with any other remedy provided in this chapter or Chapter 3704. of the Revised Code, and the existence or exercise of one remedy does not prevent the exercise of any other.